BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

THEODORE HILG	,	
VS.	ianı)
	MPANY - WICHITA	Docket No. 201,283
AND	ondent	
AMERICAN MANUFACTURERS MUTUAL Insurance Carrier		
AND	ance Camer	
KANSAS WORKE	RS COMPENSATION FUND))

ORDER

Respondent appeals from a June 7, 1995 Preliminary Hearing Order granting claimant's request for temporary total disability and medical benefits.

ISSUES

Respondent contends the Administrative Law Judge exceeded her jurisdiction by granting preliminary benefits in a case where the claimant has not established accidental injury arising out of and in the course of his employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds:

- (1) The issue raised by respondent is one subject to review on appeal from a Preliminary Order pursuant to K.S.A. 44-534a.
- (2) The Appeals Board finds the Administrative Law Judge did not exceed her jurisdiction as the evidence does support the finding claimant suffered an accidental injury arising out of and in the course of his employment.

Claimant testified that in September of 1994 he injured his right shoulder when he was lifting an object to remove a rope underneath the object. There appears to be no

dispute that claimant advised his supervisor of the injury within fifteen (15) minutes. Respondent disputes the injury because the evidence also established that claimant did substantial weight lifting in January of 1995. Respondent also points out that claimant did not seek medical treatment until February of 1995. The evidence relating to the weight lifting point does raise doubts about claimant's testimony and version of the facts. However, the Administrative Law Judge has had the opportunity to observe the witness and has found the claimant's version of the facts to be credible. The Appeals Board concludes that the doubts raised by the evidence are not sufficient to outweigh the testimony by the claimant and therefore affirms the decision by the Administrative Law Judge.

WHEREFORE, the Appeals Board finds that the Order of Administrative Law Judge Shannon S. Krysl dated June 7, 1995 should be, and the same is hereby, affirmed.

IT IS SO ORDERED.		
Dated this	_ day of December 1995.	
	BOARD MEMBER	
	BOARD MEMBER	
	BOARD MEMBER	

c: Dennis Phelps, Wichita, KS Frederick L. Haag, Wichita, KS Steven L. Foulston, Wichita, KS Shannon S. Krysl, Administrative Law Judge Philip S. Harness, Director